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December 9, 2002

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**HAND DELIVERY**

The Honorable Michael Powell, Chairman  
Federal Communications Commission  
445 Twelfth Street, S.W., 8<sup>th</sup> Floor  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: Amended *Ex Parte* Presentation  
CC Docket Nos. 96-98.01-338

Dear Chairman Powell,

On behalf of the Association for Communications Enterprises ("ASCENT") we herewith submit the affidavit of Kevin Shady, Vice President of Lightyear Communications in support of the market based proposal submitted by ASCENT in its *ex parte* presentation filed on December 4, 2002. Please associate the attached affidavit with the above referenced *ex parte* filing.

Questions or concerns regarding this amendment should be addressed to the undersigned.

Sincerely,



William B. Wilhelm, Esq.  
Counsel for ASCENT

cc: Commissioner Kathleen Abernathy  
Commissioner Kevin J. Martin  
Christopher Libertelli  
Matthew Brill  
William Maher  
Richard Lerner  
Michelle Carey  
Tom Navin  
Rob Tanner

Commissioner Michael J. Copps  
Commissioner Jonathan S. Adelstein  
Jordan Goldstein  
Dan Gonzalez  
Jeffrey Carlisle  
Scott Bergmann  
Brent Olson  
Jeremy Miller  
Marlene Dortch

**AFFIDAVIT**

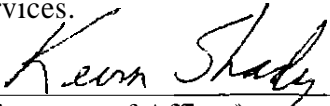
I, Kevin Shady, hereby affirm that I am the Vice President of Local Development for Lightyear Communications, Inc. ("Lightyear") In this capacity, I am responsible for the development of Lightyear's local products and services.

Lightyear is a provider of local telephone service in the states of AL, GA, LA, MS, NC, SC, FL, TN, KY, TX, CA, and IL. This service is currently provided utilizing UNE-P. Lightyear also provides other telecommunication services such as outbound long distance, toll free, data and Internet services. Lightyear is a privately held Kentucky Corporation formed in March 1993 under the name of UniDial Incorporated. We currently have authority to provide long distance in all states except Alaska, and hold CLEC authority in approximately **26** states. Lightyear employs approximately 165 persons, and our office is located in Louisville, Kentucky.

**As** a competitive provider of local telecommunications service, a transition by the Federal Communication Commission away from UNE-P is certain to disrupt my company's ability to continue to provision service to its customers. Of particular concern is the company's ability to purchase wholesale switching as a UNE.

It is not possible, nor economically feasible, for Lightyear to self-provision local switching services at this time. Were the FCC to forebear from requiring the ILECs to provision switching services as a UNE, the company would be unable to obtain reliable substitute switching services at reasonable rates. During a recent market specific study my staff contacted twenty-nine local service providers of which none could or would offer a switching alternative to Lightyear.

In the absence of a competitive wholesale market for switching services, it is unreasonable to believe that the incumbent would have any incentive to provision services at reasonable rates. Accordingly, until such a market exists on a central office, by central office basis, there is little doubt that Lightyear would be impaired from provisioning services to its customers absent the availability of UNE switching services.

  
(Signature of Affiant)

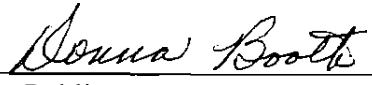
Commonwealth of Kentucky

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County of Jefferson

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**SUBSCRIBED AND SWORN TO** before me by Kevin Shady this 5th day of December, 2002.

  
Notary Public

My Commission Expires: November 2, 2004